

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 29 2009 ★

UNITED STATES OF AMERICA,

BROOKLYN OFFICE

Plaintiff,

v.

CV09 - *No.*
Judge

5669

STANLEY SOREN, RUTH A. SOREN,
EMIGRANT SAVINGS BANK,
NEW YORK STATE DEPARTMENT OF TAXATION
AND FINANCE (ALBANY), and NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE
(KEW GARDENS),

BLOCK, J.

CARTER, M.J.

Defendants.

UNITED STATES' COMPLAINT

The plaintiff, United States of America, by its Attorney, Benton J. Campbell, United States Attorney for the Eastern District of New York, brings this civil action to establish the validity of liens of the United States under 26 U.S.C. § 6321 upon all of the property and rights to property belonging to Stanley Soren and Ruth A. Soren (the "Taxpayers"), and to foreclose federal tax liens upon the property described in this complaint, with such property to be sold at a judicial sale. For its complaint, the United States alleges as follows:

JURISDICTION, VENUE, AND PARTIES

1. Pursuant to 26 U.S.C. §§ 7401 and 7403, this complaint has been authorized and sanctioned by a delegate of the Secretary of the Treasury and is brought at the direction of the Attorney General of the United States of America.

2. Jurisdiction over this action is conferred upon this Court under 28 U.S.C.

§§ 1331, 1340, and 1345 and 26 U.S.C. § 7402.

3. The defendant Stanley Soren resides within the jurisdiction of this Court.

4. The defendant Ruth Soren resides within the jurisdiction of this Court.

5. Emigrant Savings Bank has a place of business at 5 East 42nd Street New York, New York 10017. Emigrant Savings Bank is made a defendant pursuant to 26 U.S.C. § 7403 as it may claim an interest in the property upon which the United States seeks to foreclose its liens.

6. New York State Department of Taxation and Finance – Civil Enforcement-CO-ATC (Albany) has a place of business at W.A. Harriman Campus, Building 8, Albany, New York 12227. New York State Department of Taxation and Finance – Civil Enforcement-CO-ATC (Albany) is made a defendant pursuant to 26 U.S.C. § 7403 as it may claim an interest in the property upon which the United States seeks to foreclose its liens.

7. New York State Department of Taxation and Finance – Civil Enforcement-CO-ATC (Kew Gardens) has a place of business at 80-02 Kew Gardens Road, Kew Gardens, New York 11415. New York State Department of Taxation and Finance – Civil Enforcement-CO-ATC (Kew Gardens) is made a defendant pursuant to 26 U.S.C. § 7403 as it may claim an interest in the property upon which the United States seeks to foreclose its liens.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396.

TAX LIABILITIES

9. On the following dates, a delegate of the Secretary of the Treasury made assessments against the Taxpayers for unpaid federal income taxes, penalties, and interest, for the

income tax years, in the following amounts, which had balances due as of March 3, 2008¹; and against Stanley Soren for unpaid 26 U.S.C. § 6672 tax assessments, also which had balances due as of March 3, 2008, as follows:

Tax Period Ending December 31,	Date of Assessment	Unpaid Balance of Assessment	Accrued Penalties and Interest to March 3, 2008	Total Assessed Balance as of March 3, 2008
1991	11/27/1995	\$ 1,893.88	\$ 42,900.25	\$ 44,794.13
1992	11/27/1995	\$ 120,782.89	\$ 190,418.58	\$ 311,201.47
1994	11/27/1995	\$ 36,239.94	\$ 44,607.17	\$ 80,847.11
1995	11/25/1996	\$ 97,034.34	\$ 103,940.83	\$ 200,975.17
1996	04/14/1997	\$ 83,480.00	\$ 78,736.18	\$ 162,216.18
1997	11/23/1998	\$ 25,601.18	\$ 27,410.71	\$ 53,011.89
1998	12/06/1999	\$ 13,451.77	\$ 12,434.37	\$ 25,886.14
2005	11/13/2006	\$ 63,662.51	\$ 15,420.00	\$ 79,082.51
2006	11/05/2007	\$ 15,246.75	\$ 653.78	\$ 15,900.53
			TOTAL	\$ 973,915.13
Tax Periods for TFRP Ending (only as to Stanley Soren)	Date of Assessment	Unpaid Balance of Assessment	Accrued Interest to March 3, 2008	Total Assessed Balance as of March 3, 2008
09/30/1998	10/18/1999	\$ 79,862.82	\$ 60,052.64	\$ 139,915.46
03/31/1999	02/21/2000	\$ 18,245.33	\$ 12,849.89	\$ 31,095.22
			TOTAL	\$ 171,010.68

¹ Statutory interest and penalties continue to accrue from March 3, 2008.

10. A delegate of the Secretary of the Treasury of the United States properly issued notice of the assessments described in paragraph 9, above, to the Taxpayers, and made demand for payment to the Taxpayers.

11. On March 24, 2008, the United States filed suit in the Eastern District Of New York to reduce to judgment these unpaid federal income tax liabilities owed by the Taxpayers, for the years 1991, 1992, 1994 through and including 1998, 2005, and 2006; and to reduce to judgment additional trust fund recovery penalty taxes against Stanley Soren for the periods ending September 30, 1998 and March 31, 1999. That lawsuit was assigned case number 1:08-cv-01203-SJF-SMG.

12. On November 25, 2008, judgment was entered against the taxpayers, jointly and severally for unpaid income taxes, interest, and statutory accruals for the tax years 1991, 1992, 1994 through and including 1998, 2005, and 2006, in the amount of \$1,013,369.51, as of October 24, 2008, plus statutory accruals that had accrued and continued to accrue from October 24, 2008. *See Docket Entry No. 11, Case No. 1:08-cv-01203-SJF.*

13. Also on November 25, 2008, judgment was entered against Stanley Soren for unpaid trust fund recovery penalties for Orthopaedic Medical Consulting of New York for the quarters ending September 30, 1998, and March 31, 1999, in the additional amount of \$177,416.29 as of October 24, 2008, plus statutory accruals that had accrued and continue to accrue from October 24, 2008. *See Docket Entry No. 11, Case No. 1:08-cv-01203-SJF.*

FORECLOSURE

14. By bargain and sale deed dated June 9, 1971, and recorded with the Richmond County Registry of Deeds on June 10, 1971, at Book 1945, Page 414, title to real property,

commonly known as 51 Seagate Road, Staten Island, New York 10305 (the "Property"), was conveyed to the defendants Stanley Soren and Ruth A. Soren, and is more fully described as follows:

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of Richmond, City and State of New York, known and designated as Lots V, W, and X on a certain survey by North, Allison and Ettlinger entitled "Map of Shore Acres, Subdivision B, Fourth Ward, Borough of Richmond, City of New York, April 1926" and which said lots, according to said survey, are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Alexandre Drive as shown 20 feet wide, distant 61.02 feet, northerly along said drive from a right-of-way shown on said survey, said point of beginning being the intersection of the southerly line of Lot W shown on said survey with the easterly line of Alexandre Drive; running thence North 60 degrees, 21 minutes 46 seconds East, 197.50 feet along the southerly line of Lots W and X on said survey to the easterly line of Lot X on said survey; thence North 41 degrees 51 minutes, 44 seconds West along the easterly line of Lot X 100 feet to the southerly line of Lot V on said survey; thence along the easterly line of Lot V on said survey, North 28 degrees 29 minutes 04 seconds west 48.90 feet to the northerly line of Lot V; thence along said northerly line South 60 degrees 21 minutes 46 seconds west 97.42 feet to the easterly line of Alexandre Drive; thence along said drive South 25 degrees 28 minutes 06 seconds east 49.02 feet; thence along said drive southerly as it curves 30.61 feet; thence still along said drive 95.48 feet to the point or place of BEGINNING.

15. The failure, neglect, or refusal of the Taxpayers to pay the taxes, penalties, and interest assessed against them following notice of the assessments and demand for payment of the same, gave rise, as of the dates of the assessments, to liens in favor of the United States, pursuant to 26 U.S.C. §§ 6321 and 6322, upon all of the property and rights to property belonging to the Taxpayers in an amount equal to the unpaid assessments, plus interest and other accruals permitted by law. These federal tax liens are superior to any claims or other interests of the defendants to or in the property belonging to the Taxpayers, including the Property.

16. A delegate of the Secretary of the Treasury filed notices of liens in accordance with 26 U.S.C. § 6323(f) for the unpaid federal income tax liabilities of the Taxpayers at the County Clerk's Office for Richmond County on March 5, 2008.

17. Pursuant to Section 7403 of the Internal Revenue Code, 26 U.S.C. § 7403, the United States of America is entitled to judgment foreclosing the federal tax liens described above and a decree ordering the sale of the Property, and distributing the proceeds of such sale in accordance with the parties' respective rights and priorities.

WHEREFORE, the plaintiff United States of America prays for judgment:

A. That the Court determine and adjudge that the United States has valid and subsisting federal tax liens on all property and rights to property belonging to the defendants Stanley Soren and Ruth A. Soren, including their interest in the Property described in paragraph 14, above;

B. That this Court order the foreclosure of the United States' tax liens upon the Property described in this complaint, and that said Property be sold by a proper officer of this Court according to law, free and clear of all rights, titles, liens, claims, and interests of the parties hereto, and that proceeds of such sales be distributed, after the costs of sale, to the United States and to the other parties in accordance with the law; and

C. That this Court award the United States of America its costs and such further relief as is just and proper.

Dated: December 17, 2009

BENTON J. CAMPBELL
United States Attorney

Andrea A. Kafka
ANDREA A. KAFKA
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-7932
Facsimile: (202) 514-5238
Email: Andrea.Kafka@usdoj.gov